

FEBRUARY 7, 2012

CITY OF TRINIDAD  
TRINIDAD, COLORADO

The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, February 7, 2012 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Rino, presiding
	Councilmembers	Baca Gonzalez, Bolton, Pando, Shew, Velasquez
Also present:	City Manager	Gil de Rubio
	City Attorney	Beatty
	City Clerk	Garrett
Absent:	Councilmember	Bonato

The pledge of allegiance was recited.

**READING OF THE MINUTES.** A motion to approve the minutes of the regular meeting of January 17, 2012, and minutes of the special meeting of January 24, 2012, as submitted was made by Councilmember Shew and seconded by Councilmember Baca Gonzalez. The motion carried by a unanimous roll call vote.

**PUBLIC HEARING.** Consideration of an ordinance amending the zone classification of property located in the C.P. Treats Northside Addition, Block 19, Lots 1, 2, and 3, except the south 19.3 feet of Lot 3, of the City of Trinidad, Colorado, from Established-Community Commercial to Established-Low Density Residential zoning, as requested by Hope and Bernard Brunelli, known as 821 Nevada Avenue. Mayor Rino opened the hearing. Councilmember Baca Gonzalez asked if it is correct, for the record, that it is the recommendation of administration that this zone change be approved. Planning Director Louis Fineberg corrected that it is the unanimous recommendation of the Planning Commission that it be approved. There being no further comments, the hearing was closed.

First reading of an ordinance amending the zone classification of property located in the C.P. Treats Northside Addition, Block 19, Lots 1, 2, and 3, except the south 19.3 feet of Lot 3, of the City of Trinidad, Colorado, from Established-Community Commercial to Established-Low Density Residential zoning, as requested by Hope and Bernard Brunelli, known as 821 Nevada Avenue, and setting a hearing date for consideration of said ordinance. The ordinance was introduced by Councilmember Pando and read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on February 21, 2012, was made by Councilmember Shew and seconded by Councilmember Bolton. The motion carried unanimously upon roll call vote.

## ORDINANCE NO.

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION OF PROPERTY LOCATED IN THE C.P. TREATS NORTHSIDE ADDITION, BLOCK 19, LOTS 1, 2, AND 3, EXCEPT THE SOUTH 19.3 FEET OF LOT 3, OF THE CITY OF TRINIDAD, COLORADO, FROM ESTABLISHED-COMMUNITY COMMERCIAL TO ESTABLISHED-LOW DENSITY RESIDENTIAL ZONING

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Update on Purgatoire River Restoration Project by Trinidad Community Foundation, Trout Unlimited, and the Purgatoire River Conservancy District – Howard Lackey. Mr. Lackey addressed Council. He showed Council the project on a display map and passed a book around with the project details. He told Council that he was pleased to report that they are on their final approach to the river project that they have been working on for the past five years. In that time there has been a lot of talk, planning, wishing, hoping and cleaning up of trash in the river. Now they are ready to get started. The money is in place and the contracts are ready to go. The boulders and other materials for the river are expected to be delivered within the next two to three weeks. The contract is with Fin-Up Habitat out of Manitou Springs along with a gentleman out of La Veta who specializes in river restoration projects. He said he is sure everyone will be pleased when the project is done. Mr. Lackey said the total plan includes improvements to the river from the Trinidad Dam to the Highway 350/160 project. He reiterated that this was started years ago when they were cleaning the river up and said the river deserves a lot better than for it to be a trash disposal location. This project was started in conjunction with the river walk project and they have worked to get rid of the Russian Olive invasive species and other aspects of the river to make it something we can be proud of and use it for recreational purposes from April through October, which is generally the irrigation season. They got together with the Purgatoire River Conservancy District who agreed to allow the project and had money available for the project. They have about \$100,000 now that will be used for several different aspects of the project. The project is going to start west of town, right at the I-25 corridor and will move all the way through down town to Animas Street. From Animas it will extend to just past Commercial Street to what is referred to as the diversion or low dam area. The project will entail improving the actual river habitat through boulder placement, cross vanes which will create pools, j-hooks and boulder clusters in the river itself for the creation of trout habitat mainly during the high pool seasons of the year. The initial project overview is to have this for a recreational fishery 365 days per year. The project is not there right now, but they are in the process to get it started. He said Trout Unlimited has worked with Division of Wildlife, Purgatoire River Conservancy District and Pioneer Natural Resources and others on this project. Pioneer Natural Resources donated \$40,000 in manpower and equipment to develop a trail system on the very west end for handicap access and kid-friendly access to fish the river. Mr. Lackey continued that he and Planning Director Louis Fineberg will walk the area tomorrow to put the final plan together. Additionally, right next to Cimino Park they have tentative plans with the Trinidad Arts Council and various artists within the community to display art along the river, like they have done along Clear Creek in Golden. They mostly have natural art, but he said they will open it up to pretty much everything. It is a good place to display art. This will end up, along with the Flag Project, making the downtown river corridor in Trinidad a focal point for the community. He credited the cooperation of Public Works Director

Mike Valentine and said Corp of Engineers is very excited about it. It is hoped that the next phase will be from Commercial Street down to Linden Avenue to include taking out the old tank traps, the big piece of metal that goes across the river, restore the perennial area, plant willow trees and remove the invasive species, creating a totally natural corridor. This will create a tremendous sense of pride for the community resulting in people watching their trash and taking care of the river as a place to enjoy and it will create a healthy environment for that whole downtown corridor. It will create opportunities for recreation all the way through town. He said they also hope to eventually include the Boulevard Addition which is the 90 acres on the west side of I-25 as a nature walk and trails all the way up to Trinidad Lake. Mr. Lackey told Council that Pat Patrick also worked with them on a lot of the different projects and in putting together a lot of the trails to make this an open area for everyone involved in the community. He continued that they have received a great deal of support from the community for this project. It was the first project he said he's been involved in that he hasn't heard the word no yet. He said he thinks it will create a huge opportunity for the people of Trinidad and those who frequent it. He joked that a fisherman will spend \$150 a day on his wife to come back and go fishing. Mr. Lackey introduced Jim Muzzlin, the new President of Trout Unlimited, to provide Council with an overview of how they intend to maintain the project over the years. He said it is not only important to build it, but to maintain and improve it. Mr. Muzzlin told Council that Trout Unlimited has 54 members who are volunteers looking forward to being the stewards of the river now and into the future. It is one of their missions. He pointed to the handout provided to Council and said they are looking forward to working with Council, the City and their partners. Mayor Rino asked what will happen in the winter time when the irrigation season is over and the flow in the Purgatoire River is practically nil. How will the fish be maintained during that period? Mr. Lackey answered that that was a main concern of Division of Wildlife as well. The structure being put into the river will eventually create habitat that will support the fish through the winter. Initially however it will be a put and take – stocking will take place in April and the water will shut off in October. Hopefully there will be enough good fishermen to take those fish in that time frame. There will be some fish that carry over, as is the case now, in different sections of the river. These are things that will develop as nature does over a period of time. He said they hope sometime down the line someone might come forward with water they are not using and lease it to them. They are things that they will have to work through in the future. Right now they are just looking at the opportunity to build an infrastructure that will support something like that in the future to use about eight months out of the year. Mr. Muzzlin added that this is called a demonstration project to demonstrate the quality of what can be provided in habitat and stream structures and work with their partners. Mr. Lackey said the consultant they are using for the project oversight is nationally renowned in creating habitat and in creating the habitat in marginal areas. He said he's not sure what this project will become but for now it represents an opportunity for people to fish and enjoy nature five minutes from their house and bring their kids and grandkids along. Mayor Rino said he recalls the City having owned a dedicated well at the old Water Works building that's never been used. He wondered if and how much water that might provide for the winter months. He referred Mr. Lackey and Muzzlin to Utilities Superintendent Fernandez. Mr. Lackey said they've been looking at this project and the interesting thing about the river is that the further east you go the more water shows up. There are some really good sections from Commercial Street east all the way to 350/160 that probably wouldn't require any supplemental water. Where it will be needed is from the dam to I-25. He reminded that water laws are very complicated in Colorado, however. He added that he has had a couple of people upstream that might be interested sometime in the future. The first thing they need to do is get it built, have it prove itself to be successful and thereafter pursue improvements. Mayor Rino expressed appreciation. Mr. Lackey concluded that they will have a water festival in Trinidad on May 15<sup>th</sup>. If everything goes well, the project will be done and they will probably dedicate two sections of the river on that date. He said it will be something the City can be proud of and hang their hat on.

Thomas Murphy, who signed in to speak, asked to hold off on reading some documents into the record if no one else signed up to speak this evening.

**REPORT BY CITY MANAGER.** Creative District Grant. City Manager Gil de Rubio commented that the Creative District grant application was submitted last week and he will call upon Tara Marshall and Louis Fineberg to report on it.

Update on the Opera House. City Manager Gil de Rubio advised Council that negotiations with the building owner are going smoothly at this point. The City has posted the building and can take it over for safety reasons. The owner has spoken to him about making the building reasonably safe so the City can remove the barriers from Main Street and have covered pedestrian walkways along Main Street and up the alley. The owner has hired a local contractor who is looking at it to get it done quickly. The contractor is working with a structural engineer to come forward with a plan. He said the City is systematically keeping pressure on the owner to move the project along. City Manager Gil de Rubio informed Council that there is a group of investors who are very interested in purchasing the building; the negotiations are ongoing. However, he said he doesn't see any conclusion with those negotiations for at least another two weeks. In that time, the building should be made reasonably safe.

Clubhouse RFI. City Manager Gil de Rubio pointed out to Council at their seating places a copy of the Request for Information for the golf course clubhouse. He said the advertising for the RFI began this week. The cut-off date for receiving the documents is February 29<sup>th</sup>. He said he hopes to bring the documents and reports to Council mid March to move the process along with interviews. Mayor Rino asked if the RFI is just for the clubhouse and not the golf course itself. City Manager Gil de Rubio confirmed that it is for the clubhouse only. It is specific in the RFI. He said Council will be looking at comprehensive information to be provided and intends to supply Council with a grading sheet if they wish to adopt it for their use in grading the RFIs received. There are going to be various aspects of the RFI that Council should come to a conclusion on for some kind of criteria to keep the playing field level.

Central Park. City Manager Gil de Rubio advised Council that he and administration will be coming to Council regarding a beer license at Central Park for the Pecos League. It will probably be for a 3.2% beer license. At this point the kinks haven't been worked out, however he said documentation will be forthcoming probably at their next work session.

Committee composition. City Manager Gil de Rubio told Council that at the next work session he will introduce an ordinance allowing for committee members who reside out of City limit.

Workshop. City Manager Gil de Rubio advised Council that from tomorrow through Saturday he would be attending the Colorado City and County Manager's Association annual conference in Glenwood Springs.

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Creative District grant application. City Manager Gil de Rubio deferred to Colorado Welcome Center Director Tara Marshall and Planning Director Louis Fineberg to update Council on the grant application. Ms. Marshall informed Council that Planning Director Fineberg submitted the grant application on Friday, January 27<sup>th</sup>. The deadline was January 30<sup>th</sup>. There were 49 applications submitted, seven of which were discarded leaving 42 in play. The applications will be decided upon at the end of this month. Fifteen cities will receive the designation of Creative District. She continued that House Bill 12-1132 was introduced the week of January 15<sup>th</sup> and if it passes will provide for a 50% state income tax credit against tax liability from those businesses who earned their living in a creative business activity in a Creative District. It will be an economic development tool if the City receives the designation. She pointed to the copy of the 110-page grant application provided to Council in their packets and noted that they were also provided a report indicating that there were 45 community members who participated in this grant application. Ms. Marshall drew Council's attention to the map in the application prepared by City Engineering Tech Jeni Jackson and Planning Intern Kelly Farabee's pictures that corresponded with the each note in the map. She concluded that the City submitted a strong application which had been prepared in three weeks. City Manager Gil de Rubio commented that this was an intensive project that even if Trinidad doesn't receive the designation, brought a lot of different facets of the art community together in terms of forming a direction for Trinidad. It was a labor of love for staff. He credited the City's new intern, Kelly Farabee, on the great job she did with the photos. He concluded that he has been involved in many grants and this was one of the best he had seen in a long time.

**REPORT BY CITY ATTORNEY.** Work Session schedule. City Attorney Beatty reminded Council that he and City Manager Gil de Rubio will be attending a status conference regarding the ARPA litigation on Tuesday, February 14<sup>th</sup> at 1:30, which is in conflict with the regularly scheduled work session. Therefore, he requested and received Council's concurrence to begin the work session at 3:00 p.m. instead.

Work Session schedule/pre-trial conference. City Attorney Beatty forewarned City Council that members of staff will be required to attend a pre-trial conference for litigation the City has pending in Federal District Court in Denver on February 28<sup>th</sup>, which is the following work session date. He said there may not be an opportunity to reschedule that work session for the prior Monday or following Wednesday, so we are going to try to get by without holding one that week.

Historic Water Works Building. City Attorney Beatty provided Council with an update regarding the Water Works Building project. He said the City has been in discussions with the contractor, Southern Colorado Construction. The primary outstanding item in the first phase of the project is the roof and for various reasons the contractor has not been able to work well with the initial manufacturer. Therefore, they are now working with a new manufacturer and have ordered the roof. They are scheduled to start the work on March 5<sup>th</sup> weather permitting and will begin to complete the remaining soffit on the building the week prior to March 5<sup>th</sup>.

New Elk Coal Company. City Council was informed by City Attorney Beatty of the request received from New Elk Coal Mine for a more significant lease of water rights from the City. He said they are attempting to coordinate with the City's water law counsel to come and explain the request to Council and how we might be able to meet their request.

Facility Use Agreements. City Attorney Beatty advised Council that the City is still seeking full execution of the Amendment to the Facility Use Agreement for Central Park upper field with Trinidad State Junior College and Trinidad High School. Trinidad High School has requested additional verbiage pertaining to the priority of use. He concluded that he will bring the proposed changes to City Council in the near future.

**COMMITTEE REPORTS.** None.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Special Events Permit (Malt, Vinous and Spirituous) request by Trinidad & Las Animas County Chamber of Commerce at 206 N. Animas Street for February 18, 2012 (Annual Business Meeting). Councilmember Shew moved to approve the permit and the motion was seconded by Councilmember Bolton. Upon roll call vote, the motion carried unanimously.

Tastings permit renewal request by Opera House Wine & Spirits, LLC d/b/a Tire Shop Wine & Spirits at 601 W. Main Street. A motion to renew the tastings permit was made by Councilmember Bolton and Councilmember Baca Gonzalez seconded the motion. Roll call was taken on the motion, which carried unanimously.

3.2% Beer Retail License (Off-Premises) renewal request and Report of Changes by Wal-Mart Stores, Inc. d/b/a Walmart #962 at 2921 Toupal Drive. City Clerk Garrett advised that the report of changes is to change their trade name from Walmart Supercenter #962 to Walmart #962. A motion to approve the renewal and the report of changes was made by Councilmember Shew and seconded by Councilmember Velasquez. The motion carried unanimously upon roll call vote of Councilmembers present.

New hotel and restaurant liquor license application filed by LMR, Inc. d/b/a Purgatoire & A Little Catering Company at 516 E. Elm Street. A motion to set the matter for hearing at 7:00 p.m. on March 20, 2012 and identify the tentative neighborhood boundary as the corporate City limits was made by Councilmember Shew. Councilmember Baca Gonzalez seconded the motion which carried by a unanimous roll call vote. Rick Collander, Leona Falsetto and Mary Strange appeared and identified themselves to Council.

Appointment to the Planning, Zoning and Variance Commission. Councilmember Shew moved to accept the letter of interest from Richard George for his appointment to the Commission. Councilmember Velasquez seconded the motion. The motion carried unanimously, excepting Councilmember Baca Gonzalez who cast a dissenting vote.

Appointments to the Tourism Board. A motion to re-appoint Lou Girodo, Steven Kelly and Pat Patrick to the Board was made by Councilmember Bolton and seconded by Councilmember Baca Gonzalez. Roll call was taken on the motion which carried unanimously.

Appointment to the Library Advisory Board. Councilmember Bolton moved for the appointment of Stephen Heller to the Board and Councilmember Baca Gonzalez seconded the motion. Upon roll call vote, Mr. Heller was appointed unanimously. Mayor Rino inquired as to who on Council was the liaison. Councilmember Baca Gonzalez advised she is. Mayor Rino asked her to report at some time as to what Council is looking at as far as expansion.

Appointments to the E-911 Authority Board. Councilmember Shew moved for the appointment of Arsenio Vigil and the motion was seconded by Councilmember Pando. The motion carried unanimously. Councilmember Baca Gonzalez moved for the appointment of David Barrack. Councilmember Bolton seconded the motion. The motion carried unanimously.

Ratification of the City's General Services Agreement (1074-A) with AFSCME Local No. 1074. Councilmember Baca Gonzalez made a motion to approve the agreement as presented. Councilmember Bolton seconded the motion which carried unanimously upon a roll call vote.

Ratification of the City's Police Union Agreement (1074-B) with AFSCME Local No. 1074. A motion to approve the agreement as presented was made by Councilmember Baca Gonzalez and seconded by Councilmember Bolton. Roll call was taken on the motion which carried unanimously.

Ratification of the City's Fire Union Agreement (1074-C) with AFSCME Local No. 1074. Councilmember Baca Gonzalez moved to approve the agreement as presented and Councilmember Shew seconded the motion. Upon roll call vote, the motion carried unanimously.

First reading of an ordinance amending Chapter 11 ("Municipal Solid Waste") of the Code of the City of Trinidad, Colorado, by addition Section 11-8.1 "Wildlife-Proof Refuse Containers and Dumpster Enclosures for Non-Residential and Multiple-Family Residential Uses" for the purpose of requiring wildlife-proof refuse containers for non-residential and multiple-family residential uses within City limits, and setting a hearing date for consideration of said ordinance. Councilmember Baca Gonzalez introduced the ordinance and it was read in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on February 21, 2012, was made by Councilmember Baca Gonzalez and seconded by Councilmember Shew. Dan Ruscetti, Right Way Disposal, addressed Council. He said he has no problem with bear-proofing the containers, however pointed out to Council that the large containers weigh 400 to 500 pounds when full and voiced concerns about the bears knocking them on their side once they are bear-proofed and his employees getting hurt trying to return them to their upright position. He asked who will be responsible for them getting hurt - will the City have any liability because they are requiring the refuse companies to make them bear-proof? Or will the Colorado Division of Wildlife have any liability? If they weren't bear proof they wouldn't be laying on their side. He continued that his understanding is that they will be bear-proofing at restaurants and apartments and suggested that the result will be that the problem will move to the residential areas. He said the City will need an ordinance for the residential area to bear-proof them. He continued that bears are opportunists and if the residential areas have bear proof containers the bears will be hitting garages and houses. He suggested that the City is looking at the wrong thing. The problem is the bears. The Division of Wildlife on a first occurrence with a bear has to ear tag it and the second occurrence they have to kill the bear. He suggested the City adopt an ordinance that says a bear trapped in the City limits doesn't get ear tagged and if it gets trapped again it doesn't get put down but removed out of the area. Mr. Ruscetti estimated the cost of bear proofing the containers at \$200 to \$300 per container. Mayor Rino asked the cost of bear-proofing a residential container. City Planner Fineberg said it is as low as \$100. Mr. Ruscetti pointed out that his 1,400 residential customers at \$100 per container and his 200 commercial customers at \$250 to \$300 per customer collectively is significantly costly to him. Mayor Rino asked Mr. Ruscetti if he raised his concerns to the Planning Commission. Mr. Ruscetti said he did but they didn't seem to mind. He said the Planning Commission was looking at getting this done within six months, before the bear population comes out. However they finally decided on one year to accomplish it. He additionally pointed out that the problem exists three to four months out of the year, from the end of July to mid October, when the bears are putting on weight, eating 18 to 20 hours per day. He further added that bears are vegetarians, but when they are hungry they go scavenging. He surmised that this represents a great expense to his company. He reiterated that starting in one place will only move the problem to another area. In the Stonewall area people moved to the bears' neighborhood, so bear-proofing is understandable. But we are trying to comply with the bears which are moving into our neighborhood. It still comes down to the ear tagging. Mr. Ruscetti said 18 years ago the State did away with the spring bear hunt through a vote of the public which he felt resulted in there being too many bears. He said it should have been a decision of the Division of Wildlife who are the experts, not the public. Mayor Rino asked Mr. Ruscetti how many commercial dumpsters are bear proof currently. Mr. Ruscetti answered that Walmart and Quality Inn have bear-proof containers, but the bears will knock them over. We've all seen containers on their sides. The dumpster at Nana & Nano's Restaurant was drug by a bear one and one-half blocks away. Mayor Rino commented that he can see where Mr. Ruscetti is coming from and that if it costs him additional money to bear proof the containers he'll have to raise his prices to his customers. Mr. Ruscetti said he'll try not to raise his prices, but will most likely have to. He suggested since the bears are hitting the dumpsters at Taco Bell, McDonald's, Whistle Stop and Chef Liu's that those containers be addressed first and get into it gradually. Mayor Rino noted that they hit Chef Liu's dumpster every week. Mr. Ruscetti jokingly stated that the bears know the trash routes better than his drivers do, but said that it is going to be an ongoing problem for years. Mr. Ruscetti said he'd like to get started with the hot spots and then get the rest done gradually. He pointed out that the other two trash haulers were not at the Planning Commission meeting and are not here. Pat Patrick, 723 Willow, addressed Council as a citizen, not from any wildlife organization or commission he sits on, however he said he has experience with wildlife. Mr. Patrick said that Mr. Ruscetti is probably an expert on garbage but is not an expert on bears. He asked if Council gives the garbage haulers' point of view credence that they bring in someone from the Colorado Division of Wildlife to respond to the questions who has knowledge about bears. He asked Council to consider the cost of not passing the ordinance. Bears are a valuable resource that can't be replaced. Last year the number of bears lost because of the drought and because of garbage was awful. There are some things people can do. He added that he disagrees with this being a bear problem and said instead that it is a people problem. Mr. Patrick told Council that several years ago when he served on a committee to research trash containers at Cimino Park they did a survey on police department calls related to these issues. They also asked the Parks Department about the cost of cleaning up. He additionally did a random sampling of different people who had open trash containers behind their buildings and the cost of having their staff clean up. If you weigh all factors, not to mention the bears and the potential of a human-bear encounter,

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he thought there were some things they could do. This is a long-standing problem that get worse in drought years. Mr. Patrick said he is personally willing to pay a small amount extra if that's what it takes to co-exist with bears in our community. City Planning Director Fineberg told Council that in drafting the ordinance and just targeting commercial and multi-family uses it occurred to him also that it might just shift the problem to residential neighborhoods. During the Planning Commission hearings he specifically asked that question of the Division of Wildlife representatives and their feeling was that it wouldn't move the problem. Most of the problem would be actually be solved by this proposal. City Attorney Beatty expressed appreciation to those who addressed Council for their feedback. He advised that regarding varying of the rules enforced by the State Division of Wildlife as it regards the tagging of the bears, he was fairly certain they are following state regulatory procedures and the City would not be able to vary them. However he said he thought it is something they could discuss further with DOW Agent Bob Holder for ideas to a different approach. Regarding targeting specific locations that are problem areas, which Mr. Ruscetti thought to be primarily fast food restaurants and restaurants in the City, he explained that targeting is problematic from a regulatory and constitutionality perspective unless it includes a specific class, as this ordinance does with all commercial and multi-family dwellings. As it regards any City liability if a bear knocks over a non-wildlife proof container, the City will be able avoid liability. The drivers would not be acting as agents of the City in making the container upright and so the City would likely assert governmental immunity. There could be issues that arise if it occurs on City property, but generally the City would be able to avoid liability. Roll call was taken on the motion to approve the ordinance on first reading and the following votes were cast:

Aye – Bolton, Pando, Shew

Nay – Baca Gonzalez, Velasquez, Rino

The motion failed due to lack of majority. Councilmember Baca Gonzalez commented that she was concerned with the cost to commercial establishments and multi-family residences. She recalled that in the previous work session the issue was raised if it would be effective in addressing the problem. She said she is uncertain if the lack of the spring hunt is the issue but it might be that we just have too many bears in our vicinity. She clarified that there are a variety of reasons but she was really concerned about unfunded mandates and 'using a stick instead of a carrot' to try to achieve change. She concluded that they need further dialogue. Mayor Rino commented that residents have a responsibility to protect their garbage as best they can. Perhaps they can leave their refuse inside until it is picked up. They need to find a better solution rather than pass an ordinance to get bear-proof containers. Planning Director Fineberg said he was hearing the largest concern being voiced as the cost of implementing this ordinance. He asked if there is any room for middle ground, for locked dumpsters to make it more difficult. Mayor Rino said he spoke to the owners at the Quality Inn who made their dumpster bear proof. They said they haven't had any problems since. If the commercial people are concerned, it might be wise for them to spend the money to correct the issue. Bears get into the containers and some cannot get out. Howard Lackey addressed Council. He said there are the same issues over the hill (Raton, New Mexico). He suggested a way to reach middle ground is to incentivize. When they do the downtown clean up, 50 to 60% of the trash that comes out of the river is from Taco Bell, Kentucky Fried Chicken and McDonalds. He said their Chapter has talked about volunteering some time to construct something around McDonald's dumpster. He noted that bears are creatures of habit. If they cannot get to the dumpster they will move on but will go to wherever it is the easiest to get. There should be an incentive for business owners to protect their dumpsters. It would protect their business and the integrity of their customers, but also the river and parks. He pointed out that they have 200 volunteers each year to clean the river up. He suggested it would take about 50 to 60 volunteers to help bear proof the dumpsters. Councilmember Baca Gonzalez commented that was what she was hoping to hear. They need to think outside the box instead of creating an unnecessary expense for businesses which are already struggling. Mr. Lackey pointed out that the river project will improve business for the surrounding business owners. They need to talk about what works for all of them – middle ground. Rusty Goodall, Cawthon Trailer Park and Motel, addressed Council. He said they have five commercial dumpsters at the park. They went to metal dumpsters and spent \$80 on chain to chain them up at night. The bears tipped them over a couple of times and moved them around, otherwise it eliminated the problem because they couldn't get into them. Business owners can do this on their own, without much expense, and without having to be told to do so.

#### ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 11 ("MUNICIPAL SOLID WASTE") OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, BY ADDITION SECTION 11-8.1 "WILDLIFE-PROOF REFUSE CONTAINERS AND DUMPSTER ENCLOSURES FOR NON-RESIDENTIAL AND MULTIPLE-FAMILY RESIDENTIAL USES" FOR THE PURPOSE OF REQUIRING WILDLIFE-PROOF REFUSE CONTAINERS FOR NON-RESIDENTIAL AND MULTIPLE-FAMILY RESIDENTIAL USES WITHIN CITY LIMITS, AND SETTING A HEARING DATE FOR CONSIDERATION OF SAID ORDINANCE

Consideration of Letter of Understanding between Dixon, Waller & Co., Inc. and the City of Trinidad for audit services for the year ended December 31, 2011. Councilmember Bolton moved to approve the letter of understanding, commenting that it appears reasonable. The motion was seconded by Councilmember Shew and carried unanimously upon roll call vote.

Consideration of Amended and Restated Option to Lease Water with Bar NI Corporation. Councilmember Baca Gonzalez made a motion to approve the amended and restated lease as presented. Mayor Rino commented that it is a minimal amount of water for their fish ponds. The motion was seconded by Councilmember Bolton. Roll call was taken, and the motion carried unanimously.

Consideration of bid results for Central Park grandstand repair. City Manager Gil de Rubio extended his apologies for this item not having been on the previous work session and being included in their packets last minute. He explained the reason is because of the time element the City is facing. A local contractor is going to be going into the grandstands doing repairs. After his investigation he found there are areas we can do more economically than the bid price. The City still needs to get the RFP approved and proceed with negotiations with the contractor, Bill Winter, Blue Diamond Builders. He pointed out that the City doesn't have money in the budget for this work, rather the funding for the repairs is all coming from the City's insurer, CIRSA. That is why it is last minute. Mayor Rino asked to see the drawings for the work. Public Works Director Mike Valentine told Council that because of the earthquakes, CIRSA sent engineers down to inspect City property. As a result, the City cordoned off the grandstand and it was posted as an unsafe structure by the Building

Inspector in accordance with the engineer's recommendations. The insurance company provided for engineered drawings which were included in the bid packet. The plans call for removal and replacement of the outside curtain wall and strengthening up steel columns to today's standards and code. He said he used the engineer's drawing for the bids. Three qualified bids were received, the lowest of which was received from Blue Diamond Builders in the amount of \$48,667. PWD Valentine added that he ran the bids through CIRSA and they have approved the bid amount and will cover the cost. Councilmember Baca Gonzalez made a motion to approve the bid as presented to Blue Diamond Builders in the amount of \$48,667. Councilmember Pando seconded the motion, which carried unanimously upon roll call vote.

Mayor Rino asked to make some comments about the letter to the editor printed recently in the Times newspaper. He said he has a strong concern about letters to the editor and felt that this one needs to be responded to. He told the audience that when there is going to be a personnel matter on the agenda it has to be included on the agenda 24 hours before the meeting. It was never put on the agenda. If they want to add it, it can be on the agenda and added as part of the agenda that is advertised 24 hours in advance. There isn't going to be any action taken tonight as the author claimed. The author also claimed he, Mayor Rino, has said he had four votes to get rid of the City Manager. Mayor Rino said these kinds of statements cause a lot of confusion and disheartening positions in the community and causes a split in the community. He said he has been bullied by the author enough and is tired of it and that he is going to vote the way he wants to vote on issues. He suggested the author make his comments directly to him rather than in the newspaper. This council deserves some respect. They don't need to be badgered. They were elected by the people. He said as long as they elect him he will stay here. If he goes to a recall, it doesn't make a bit of difference to him.

**BILLS.** A motion to approve the bills was made by Councilmember Bolton. The motion was seconded by Councilmember Shew. Roll call was taken on the motion. The motion carried unanimously.

**PAYROLL,** January 21, 2012 through February 3, 2012. A motion to approve the payroll was made by Councilmember Velasquez and seconded by Councilmember Bolton. The motion carried unanimously.

**ADJOURNMENT.** There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Pando and seconded by Councilmember Velasquez. The meeting was adjourned by unanimous vote of Council.

ATTEST:

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JOHN RINO, Mayor

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AUDRA GARRETT, City Clerk